

DOCKET NO: NNH-CV22-6120210-S : SUPERIOR COURT
BOSIE KIMBER, ET AL. : J. D. OF NEW HAVEN
V. : AT NEW HAVEN
RENEE DOMINGUEZ : MARCH 28, 2022

DEFENDANT'S POINTS AND AUTHORITIES
IN SUPPORT OF JUDGMENT

The defendant, Renee Dominguez, moves for judgment on the plaintiffs' quo warranto complaint on the ground that she is the right and lawful holder of her position as the Chief of Police for the City of New Haven. The plaintiffs, Bosie Kimber and Donarell Elder, seek to remove Acting Chief Dominguez by arguing that the Charter of the City of New Haven limits her right to hold a position in an interim capacity to six months, and, alternately, that an unrelated General Ordinance of the City of New Haven, § 2-304, similarly prevents her from serving in a temporary position for more than one hundred and eighty (180) days. However, both of those arguments must fail because they impermissibly infringe the Mayor's express powers of appointment and removal and rely on conflicting interpretations of the laws of New Haven.

I. Background

The defendant, Renee Dominguez, joined the New Haven Police Department on October 16, 2002 and since then has been continuously employed by the City of New Haven

as a member of the Police Department in various positions. (Stip. Facts, Docket No. 105, ¶ 2.) On June 30, 2021, Chief Otoniel Reyes retired and vacated the office of the Chief of Police of the City of New Haven. (*Id.*, ¶ 3.) On July 1, 2021, Assistant Chief Renee Dominguez was appointed by Mayor Justin Elicker to assume that vacant office and began serving as Acting Chief of Police of the City of New Haven. (*Id.*, ¶ 4.)

On December 6, 2021, Mayor Elicker nominated Acting Chief Dominguez for confirmation as the Chief of Police by the Board of Alders (the Board). (*Id.*, ¶ 5.) However, the Board rejected the nomination by voice vote, triggering a thirty (30)-day period within which to resubmit Acting Chief Dominguez for approval by the Board. (*Id.*, ¶ 6.) Rather than resubmit her nomination, Acting Chief Dominguez elected to retire from the New Haven Police Department. (*Id.*, ¶ 7.)

Given the sensitive nature of the position of Chief of Police and the importance of maintaining stability in department, Mayor Elicker has directed Acting Chief Dominguez to continue serving in her role until a new permanent Chief is installed. (*Id.*, ¶ 8.) A national search for the next chief is underway.

II. Law & Argument

This is a quo warranto action challenging Acting Chief Dominguez's right and title to hold the position of Acting Chief while a permanent Chief is identified and eventually

confirmed by the Board of Alders. “An action in the nature of quo warranto may be brought to challenge a person's legal authority to hold public office. . . . It may not be used to challenge the appointment of a mere governmental employee.” *Carleton v. Civ. Serv. Comm'n of City of Bridgeport*, 10 Conn. App. 209, 212, 522 A.2d 825 (1987).

The plaintiffs, Reverend Bosie Kimber and Pastor Donarell Elder, are citizens of New Haven challenging Acting Chief Dominguez’s right to serve in that interim role pending the Mayor’s nomination of a new permanent Chief and the Board’s subsequent approval. The plaintiffs seek to override the Mayor’s Charter-granted authority to appoint and retain department heads. The plaintiffs’ complaint does not identify any substantive critique of Acting Chief Dominguez’s qualifications. Rather, the plaintiffs make a technical argument attempting to usurp the authority of the mayor, which, if credited, would seriously disrupt the administration of the Police Department.

Put simply, the sixth-month limit imposed by the Charter no longer applied once Acting Chief Dominguez was submitted for confirmation by the Board. Moreover, City Ordinance § 2-304 does not apply to public officials like Acting Chief Dominguez. The Mayor’s decision to retain Acting Chief Dominguez to run the police department is entirely consistent with the appointment powers under the City Charter and is designed to meet the needs of public safety in a manner reserved for extraordinary situations like then one presented by Acting Chief

Dominguez's retirement. Therefore, the plaintiff's complaint should be dismissed.

A. The Plaintiffs' Construction of the Charter Provisions Governing the Appointment and Removal Process Must Fail Because It Improperly Usurps the Express Powers of the Mayor.

The plaintiffs' complaint, by attempting to limit the Mayor's discretion to appoint an acting Chief of Police to oversee the New Haven Police Department and force that person's removal, disrupts two of the Mayor's obligations as the City of New Haven's Chief Executive. The first is to the City, namely, to provide for public safety by ensuring the steady and efficient operation of the police department. The second is to the Board of Alders, to nominate another individual who meets the requirements of the Charter as permanent Chief of Police for the Board's approval. See Charter Art. XV, § 2.¹ By directing Acting Chief Dominguez to maintain her interim position until a permanent chief is nominated and approved by the Board, the Mayor is working to meet both of those obligations.

The powers of the Mayor are set forth throughout the Charter of the City of New Haven.

¹ Art. XV, § 2 provides: "In addition to the general requirements applicable to Department Heads and subject to modification as set forth in § 2.B of this Article, the Chief of Police shall have an adequate knowledge of the organization and administration of a City police department and shall also have had experience of at least five (5) years in the management and direction of supervisors of operations of a police department with at least two hundred (200) employees serving a population of at least one hundred (100,000) thousand residents. Said Chief of Police shall have earned at least a bachelor's degree from an accredited institution of higher education prior to being considered for the position." The City's Charter and Code of Ordinances can be accessed online at: https://library.municode.com/ct/new_haven/codes/code_of_ordinances?nodeId=14668

Critically, the Charter expressly provides Mayor, and only the Mayor, with authority to appoint the Chief of Police for the New Haven Police Department. See City of New Haven Charter, Art. III, § 2.A(2);² Art. VI, § 3(1)(1);³ Art. VI, § 10.⁴ That power to select and appoint an individual as police chief is not limited based on whether the individual would serve in an interim capacity. Once the Mayor designates an Acting Chief, that individual must be submitted for approval by the Board before the end of six months. Charter Art. IV § 1.A (3).⁵

² Art. III, § 2.A(2) provides the Mayor shall have power: "To appoint as employees of the City, except as otherwise provided by this Charter . . . such Department Heads . . . as may be designated by this Charter, Ordinance or other Law, subject to the provisions of Article VI. Said coordinators shall have professional qualifications in such fields as, but not limited to, community development, human services, public administration and public finance, to aid the Mayor in the carrying out of said Mayor's duties as chief executive and administrative officer of the City. Said qualifications shall be prepared in accordance with nationally accepted professional standards and best practices in the applicable field and shall be updated prior to the appointment of such Coordinator."

³ Art. VI, § 3(1)(1) provides: "The following Appointed Public Officials shall be appointed by the Mayor, subject to approval by the Board of Alders, as set forth in § 1.A(3) of Article IV of this Charter: (a) the Coordinators as authorized by § 2.A(2) of Article III of this Charter, who shall serve under the direction of the Mayor and are removable at the pleasure of the Mayor; and, (b) Chief of Police and Fire Chief, who shall serve subject to the authority of the Mayor. The person in office as Chief of Police and Fire Chief on the effective date of this Charter shall hold office until a successor has been duly appointed and qualified."

⁴ Article VI, § 10 of the City of New Haven Charter provides: "The Chief of Police shall be the Department Head of the department providing police services. The Mayor shall appoint the Chief of Police in accordance with the provisions of § 3.A(1) of this Article and the Chief shall be subject to the authority of the Mayor."

⁵ Art. IV § 1.A (3)(a) provides that the Board of Alders shall approve the Chief of Police "[a]s set forth in § 3.A (1) Article VI of this Charter. Pending action by the board, which shall be completed within thirty (30) days of the submission of the nomination, a proposed appointee to a position may perform the duties and exercise the powers of the position; although this provision shall not be applicable to appointees to boards or commissions. A rejected nominee may continue in office in an acting capacity pending resubmission of the candidate's name for approval at the board's next regular meeting; however, a person's name may not submitted more than two (2) times. Other than to membership on a Board or Commission, the Mayor may designate an individual to hold a position in an acting capacity pending the selection of a nominee, but no person may hold such a position for more than six (6) months without being submitted for confirmation by the board."

By its terms however, the Charter recognizes that an Acting Chief may serve in that position for longer than six months: once an Acting Chief is submitted for nomination to the Board, the Board then has thirty days to act on that nomination by approving or rejecting the nominee.

Id. The Board's initial rejection of a nominee is not final. Assuming the Board rejects the nominee at that first vote, the individual may nevertheless continue to serve in an acting capacity as Police Chief pending resubmission of the nomination to the Board. *Id.*

“As a creature of the state, a city can exercise only such powers as are expressly granted to it, or such powers as are necessary to enable it to discharge the duties and carry into effect the objects and purposes of its creation. . . . In the absence of an express provision, the authority necessary for effective exercise of a granted municipal power will be conferred by implication.” (Citations omitted; internal quotation marks omitted.) *Perretta v. New Britain*, 185 Conn. 88, 101–102, 440 A.2d 823 (1981). In contrast, “[w]here a charter specifies a mode of appointment, strict compliance is required. . . . More specifically, [i]f the charter points out a particular way in which any act is to be done or in which an officer is to be elected, then, unless these forms are pursued in the doing of any act or in the electing of the officer, the act or the election is not lawful.” (Citation omitted.) *DeMayo v. Quinn*, 315 Conn. 37, 41, 105 A.3d 141 (2014).

Viewed in comparison with the Mayor's powers, the Board's role in the installation of a permanent Chief of Police is limited to granting or withholding its imprimatur for the Mayor's nominee. The Board does not have the power to appoint or remove the Chief of Police. There is no Charter provision mandating action against an Acting Chief's appointment after the Board's first rejection of a nominee if, as was the case here, that nominee withdraws their name from further consideration. Nor is there any Charter provision mandating that an Acting Chief must immediately step down if the Board rejects their nomination a second time.

Nevertheless, faced with silence as to how the transition period should proceed while the Mayor identifies and nominates a different individual for the office, the plaintiffs argue that the Acting Chief must be immediately removed. In other words, without knowing when the current search for a permanent Chief of Police will be completed, the plaintiffs are advocating turnover for the sake of turnover, regardless of the circumstances. That argument and its inevitable result runs totally counter to the rules of statutory construction and must be rejected.

The exercise of interpreting a city's charter and ordinances, is governed by the same legal principles as apply to interpretation of state statutes. "[T]he interpretation of a charter or ordinance is a question of law. In construing a city charter, the rules of statutory construction generally apply. . . . Rules and regulations adopted pursuant to the authority granted by [a city] charter carry a presumption of validity and have the force and effect of law. . . . When

construing a [city] charter, the court must determine the intent of the legislative body. . . . To determine the intent of the charter, [t]he enactment must be examined in its entirety and its parts reconciled and made operative so far as possible. . . In arriving at the intention of the framers of the charter the whole and every part of the instrument must be taken and compared together. In other words, effect should be given, if possible, to every section, paragraph, sentence clause and word in the instrument and related laws.” *Testa v. Waterbury*, 55 Conn. App. 264, 270-71, 738 A.2d 740 (1999).

Only the Mayor can appoint or remove a public official like the Chief of Police from office. Charter Art. II, § 15(B).⁶ Moreover, the Charter repeatedly provides that public officials, including the Chief of Police, must hold over until a qualified successor can take their

⁶ Art. II, § 15(B) provides: “Removal of Appointees of the Mayor. Whenever the Mayor may believe any person appointed to office by said Mayor or any predecessor to be incompetent, or unfaithful to the duties of office, or that the requirements of the public service demand said appointees removal, the Mayor may summon said Public Official to appear at a place and time specified in said summons to show cause why said appointee should not be removed from said office. With said summons the Mayor shall leave with said Public Official a written statement of the charges, and if, after a full hearing, the Mayor shall find that such appointee is incompetent, or unfaithful, or that the requirements of the public service demand removal of said appointee, the Mayor may remove such person from office. Any such appointee so removed may appeal the Mayor's order of removal from said office to the Superior Court closest to the seat of government of the City of New Haven or to any judge thereof, which appeal shall be made returnable not more than six (6) nor less than three (3) Days from the date of the order of removal of said Mayor, and shall be served upon the Mayor or at the Mayor's usual place of abode at least forty-eight (48) hours before the time fixed for a hearing. And said court or judge having given such further notice as may be deemed necessary to all parties, shall forthwith hear said case, and may approve or revoke the order of said Mayor and may award costs at the discretion of the court. But no such appointee so removed shall exercise any of the powers of office during the pendency of the appeal to the Superior Court.

place. See, e.g., Charter Art. II, § 8;⁷ § 13⁸. None of the circumstances preventing a Chief of Police from holding office—death, inability or suspension or removal—apply here. The plaintiffs cannot exploit the Charter to give the Board an implied removal power that it expressly and exclusively reserved for the Mayor.

Furthermore, any dispute regarding the limits an Acting Chief's term must be resolved in deference to the Mayor's express powers under the Charter and in further recognition the Charter's overarching objective of ensuring continuity in holders of public office, especially in periods of transition. See Charter Art. VI, § 1(A).⁹ "A city charter also must be construed, if possible, so as reasonably to promote its ultimate purpose. . . . The unreasonableness of the result obtained by the acceptance of one possible alternative interpretation of an act is a reason for rejecting that interpretation in favor of another which would provide a result that is . . . reasonable." (Citation omitted; internal quotation marks omitted.) *Stamford Ridgeway Associates v. Board of Representatives*, 214 Conn. 407, 429, 572 A.2d 951 (1990).

⁷ Art. II, § 8 provides: "Whenever any office of an Appointed Public Official shall become vacant by reason of the death, resignation, inability, disability or removal of the person appointed to fill the same, said vacancy may be filled by the authority which made the former appointment, subject to the provisions of this Charter. If said last incumbent was appointed for a definite term, the successor shall be appointed for the unexpired portion of said term."

⁸ Art. II, § 13 provides, in part: "All Public Officials, unless prevented by death, inability or suspension or removal, shall hold their respective offices until their successors shall be chosen and shall have duly qualified."

Ultimately, the plain language of Article IV, § 1.A(3) of the Charter demonstrates that the Acting Chief must be permitted serve longer than six months once their nomination is submitted for confirmation. The plaintiffs' argument limiting the Acting Chief's service to six months strips the provision giving the Board thirty days to act on the nomination of all effect. Had the Charter intended for the immediate termination of an Acting Chief's appointment after six months, or alternately terminated an Acting Chief's appointment following the rejection of their nomination by the Board, it could have easily said so.

The practical effect of the plaintiff's argument is to give the Board of Alders an implied removal power that could be exercised through the passive rejection of the Mayor's nominees. In light of the plain language of the Charter, as well as its overall purpose in endowing the Mayor with sole authority to appoint or remove the Chief of Police, the plaintiffs' argument must be rejected.

B. The City Ordinance Regarding "Temporary Employees" Is Irrelevant to the Appointment of a Police Chief and Cannot Limit the Mayor's Authority Under the Charter.

The plaintiffs similarly argue that City of New Haven General Ordinance § 2-304, which prevents individuals from serving in a temporary employment position with the city for more

⁹ Art. VI, § 1(A) provides: "The express intent of this Charter is to afford the Mayor and the Board of Alders the ability to organize the government in order to achieve a balance of efficiency and service to the people of the City."

than one hundred and eighty (180) days, requires the removal of Acting Chief Dominguez.¹⁰ This argument must also fail because (1) assuming it could apply to Charter-designated positions, it would nevertheless conflict with the provisions of the Charter described above and cannot be interpreted to impose a more severe limitation than provided in the Charter, which is the superior document; and (2) § 2-304 does not apply to Acting Chief Dominguez, but rather those in “temporary employment,” a legally distinct class of employment.

First, interpreting § 2-304 to limit the Mayor’s authority to appoint a Chief, whether in an interim or acting capacity, would be inconsistent with the provisions of the Charter governing the Mayor’s appointment powers. “An attempt, by ordinance, to exercise a function authorized by the charter in a manner inconsistent with the provisions of the charter is ineffective and invalid.” *Bredice v. Norwalk*, 152 Conn. 287, 293, 206 A.2d 433 (1964). As explained above, the only explicit limit on the term an individual may serve as an interim Chief of Police is the six-month limit by when they must be submitted for approval by the Board. See Art. IV § 1.A (3). However, six months is not the same as one hundred and eighty days. For example, six months from January 1, 2022 would be July 1, 2022. However, one hundred and eighty days from January 1, 2022 would be a shorter period, ending June 30, 2022. Slight as it may be,

¹⁰ The City of New Haven Ordinances, § 2-304 provides: “No person may serve in a temporary employment position with the city beyond one hundred eighty (180) days.”

applying § 2-304 to limit the time an individual may serve as an interim Chief of Police would directly conflict with the six months provided by the Charter. Therefore, according to the rules of statutory interpretation, an interpretation that § 2-304 limits the time Acting Chief Dominguez may serve in that position must be rejected.

Other problems with the plaintiffs' proposed construction of the Charter and General Ordinances abound. The plaintiffs cannot impute the Board's use of unrelated terms in the General Ordinances to limit the Mayor's authority under the Charter. The terms used in General Ordinance § 2-304 are not used in the Charter provisions governing a department head's right to serve in an interim or acting capacity. "[W]here a statute, with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different intention existed." (Internal quotation marks omitted.) *Alexander v. Ret. Bd. of City of Waterbury*, 57 Conn. App. 751, 763, 750 A.2d 1139 (2000). In other words, if the Charter intended for the "temporary employment" described in § 2-304 to provide a further limitation on the ability of an individual to serve as in interim or acting department head, it would have said so explicitly.

In the event of an inconsistency within a city's legislative enactments, every effort should be made to construe conflicting provisions so as to arrive at a consistent body of law. "It is an accepted principle of statutory construction that, if possible, the component parts of a

statute should be construed harmoniously in order to render an overall reasonable interpretation. . . . Moreover, consistent with the aforementioned principle, the legislature is always presumed to have created a harmonious and consistent body of law [T]his tenet of statutory construction . . . requires [this court] to read statutes together when they relate to the same subject matter. . . . This principle is in accord with the directive of § 1–2z to consider a statute in relationship to other statutes on the same subject matter in order to determine whether its meaning is plain and unambiguous.” (Internal quotation marks omitted.) *Board of Education of Hamden v. State Board of Education*, 278 Conn. 326, 333–34, 898 A.2d 170 (2006).

Avoiding inconsistent results between the Charter and the General Ordinances § 2-304 requires recognizing that § 2-304 was not intended to affect individuals serving as department heads, such as the Chief of Police, but rather different classes of employees. When it was originally enacted, § 2-304 was part of a legislative package designed to limit hiring through the bidding process, especially the hiring of individuals to perform undefined “personal services” that should have been supervised by the Civil Service Board and Personnel Director. See City of New Haven Ordinance of June 6, 1983 (amending the Code of General Ordinances by adding provisions initially designated as Article XI, §§ 2-136 through 2-140,

and later revised to Article XII, §§ 2-146 through 2-150), attached as **Exhibit A**.¹¹ Specifically, it was intended to prevent the City purchasing agency from usurping the position and authority of the civil service board and personnel director. See City Ordinance § 2-451.¹²

In light of the plain language of § 2-304 and its original purpose to preserve the authority of the civil service board and personnel director, this ordinance cannot be interpreted to usurp Acting Chief Dominguez's right to continue serving at the Acting Chief of Police. The Chief of Police is not a position subject to the authority of the civil service board and personnel director. As explained above, the Chief is appointed by and serves at the pleasure of the Mayor. Moreover, Acting Chief Dominguez is not in a "temporary employment" position with the City, but rather, since 2002, has been a permanent employee—one who is now serving as Acting Chief of Police.

¹¹ Portions of that Article were repealed and reorganized in 2005, leaving the declaration of policy in place as Article VII, § 2-451, but amending and moving a shortened version of the "temporary employment" ordinance, formerly § 2-147, to become Article V, § 2-304, which is the version in effect today.

¹² Ordinance § 2-451(a) provides: "Declaration of policy. The City of New Haven hereby declares that it narrowly construes the types of personal services that can be provided through the bidding procedures set forth in city charter section 74 as amended from time to time. This policy is premised upon the following grounds: (1) City charter section 156 as amended from time to time, provides for a civil service board and a department of personnel consisting of a personnel director and such other employees as shall be provided in the budget; (2) City charter section 158 as amended from time to time, sets forth a broad mandate and duty of the civil service board to ascertain the competency of applicants for all positions or promotions in the city government by competitive examination except for specified exceptions; (3) Unless city charter section 74 is narrowly construed, the purchasing agency could usurp the position and authority of the civil service board and the personnel director and their clear charter mandate to provide for employment based upon merit selection.

For all of these reasons, any attempt to interpret General Ordinance § 2-304 in a manner that conflicts with the Charter must be rejected.

Conclusion

The plaintiffs' interpretation of the City Charter and ordinances, if credited, creates improper limitations on the Mayor's appointment power. Moreover, these arguments violate the normal rules of statutory construction. Consistent with the Charter's intent to provide only the Mayor with the authority to identify and nominate a police chief, as well as the numerous provisions giving the mayor discretion to keep department heads such as the Chief of Police as holdovers until a successor is chosen and qualified, both of the plaintiff's arguments must fail.

For the foregoing reasons, the defendant Renee Dominguez, respectfully requests that the Court recognize her right to continue serving as the Acting Chief of Police until a new Chief of Police is nominated and approved by the Board of Alders, and to accordingly reach a judgment for her in this quo warranto action.

THE DEFENDANT
RENEE DOMINGUEZ

BY: /s/ 437381
BLAKE T. SULLIVAN
Assistant Corporation Counsel
Her Attorney

CERTIFICATION

THIS IS TO CERTIFY that a copy of the foregoing was sent via electronic mail on March 28, 2022, to the following party:

Jerald Barber
Law Offices of Williams & Barber
85 Mumford Road
New Haven, CT 06515

/s/ 437381
Blake T. Sullivan

EXHIBIT A

headed by a director, which bureau shall administrate and execute the activities of the commission on cultural affairs. The director shall be appointed by the mayor upon the recommendation of the commission. The director shall hire such necessary clerical and staff assistance within the limits of the budget appropriation for the office of economic development and be responsible for the administration of the bureau.

(Ord. of 3-22-82; Ord. of 11-20-89, § 3; Ord. of 5-29-90, § 1)

Secs. 2-143—2-145. Reserved.

Editor's note—Former § 2-143, which provided that the provisions of this article as enacted by an ordinance of March 22, 1982 supersede Executive Order 78-1, was repealed by § 4 of an ordinance enacted Nov. 20, 1989.

**ARTICLE XII. CONTRACTUAL REVIEW BOARD;
REGULATION OF PROCUREMENT OF PERSONAL
SERVICES***

Sec. 2-146. Purchasing and bidding procedures.

(a) *Declaration of policy.* It is hereby declared the policy of the City of New Haven to narrowly construe the types of personal services that can be provided through the bidding procedures set forth in section 74 of the Charter of the City of New Haven. This policy is premised upon the following grounds:

- (1) Section 156 of the New Haven Charter provides for a department of personnel and civil service consisting of a civil service board and a personnel director.
- (2) Section 158 of said Charter sets forth a broad mandate and duty of the civil service board to ascertain the competency

***Editor's note**—Ord. of June 6, 1983, amended the Code by adding provisions designated Art. XI. §§ 2-136—2-140. Inasmuch as provisions bearing the same designation had been previously codified, the new provisions have been redesignated as Art. XII. §§ 2-146—2-150, to read as herein set out.

of applicants for all positions in the city government, except for specified exceptions, by competitive examination.

- (3) Unless section 74 of the Charter is construed narrowly, the purchasing agency could usurp the position and authority of the civil service board and the personnel director and their clear Charter mandate to provide for employment based upon merit selection.

(b) *Definitions.* The following are defined terms for the purposes of this article:

Municipal employee. Any person who holds employment with the municipal government of New Haven for which such person receives financial compensation from such city:

- (1) Whether such employment is in the classified or unclassified service;
- (2) Whether such employment is part-time or full-time;
- (3) Whether such employment is permanent or temporary.

Independent contractor. Any individual(s), firm, partnership or corporation in business for themselves who contract to do certain specified work according to their own methods and means and without being subject to the control or supervision of any municipal employee, except as to the result of the work.

The municipal government of the City of New Haven.

- (1) The City of New Haven, and all departments, agencies, authorities, boards, commissions, bureaus and offices created by and existing under the Charter of the City of New Haven;
- (2) The City of New Haven and all departments, agencies, authorities, boards, commissions, bureaus and offices created by or existing under an ordinance or resolution of the board of aldermen of the City of New Haven (whether or not such ordinance or resolution was adopted pursuant to a statute of the State of Connecticut authorizing such ordinance or resolution).

Expert professional consultant. Any independent contractor as defined herein providing highly technical, specialized and ad-

vanced advice and/or work product and whose responsibilities shall not include any job duties:

- (1) For which a civil service test (or classification) currently exists; or
- (2) Which are assigned to any current member of a city bargaining unit.

(c) *Scope of purchasing agent's authority to bid contracts pursuant to Charter section 74:*

- (1) The purchasing agent shall process requests for proposals only for work to be performed by independent contractors, as defined herein. The following types of independent contractors are, however, specifically excluded from the purchasing and bidding procedures set forth in section 74:
 - a. Accountants;
 - b. Actuaries;
 - c. Architects;
 - d. Attorneys;
 - e. Engineers;
 - f. Expert professional consultants;
 - g. Medical doctors;
 - h. Dentists;
- (2) Contracts with the excluded classes of independent contractors shall only be entered into by the mayor on behalf of any municipal department, authority, board, commission, bureau or office or by the president of the board of aldermen on behalf of the board of aldermen;
- (3) The purchasing agent of the City of New Haven shall immediately cease and desist from utilizing the purchasing and bidding procedures of section 74 of the City Charter to procure personal services, except and unless the provider of the services is an independent contractor, as defined herein. Contracts with expert professional consultants shall be initiated through a written proposal describing the program and the personnel involved. Said proposal shall be made available to the contract review committee at the time the contract is initiated.

- (4) For the purposes of requests for proposal for work performed by independent contractors for professional services, whether the business is a "city-based business," as defined in article XIII, § 2-153(a), shall be a factor considered in the selection of such contractor.
- (5) The City of New Haven's policy on city-based businesses, shall be stated in the request for proposal.
- (d) *Authority of the purchasing agent to determine status as an independent contractor and/or exempt professional, subject to review:*
 - (1) The purchasing agent shall determine, in the first instance, whether a "request for proposal" is properly seeking work to be done by an independent contractor as defined herein;
 - (2) The purchasing agent shall advise the contractual services review board, hereinafter provided for, of all such determinations with regard to all requests for proposals; copies of all requests for proposal documents shall be submitted to said board at the time of notice from the purchasing agent. The purchasing agent shall provide the board with such further information as may be required;
 - (3) Unless the contractual services review board reverses the determination of the purchasing agent and so advises the purchasing agent of such determination within fifteen (15) business days of the date the board received the communication from the purchasing agent, the purchasing agent may proceed with the request for proposal process pursuant to section 74 of the Charter.
- (e) *Contractual services review board.* There is hereby established a contractual services review board which shall consist of the chief administrative officer, the president of the civil service board, the personnel director and two (2) members of the board of aldermen, not from the same political party, as appointed by its president. Said aldermen shall serve in said position for a term

not to exceed two (2) years unless reappointed. Such board is authorized to:

- (1) Review all requests for proposals to provide contractual services to the municipal government as provided in subsection (d) of this section;
- (2) Determine whether any particular request for proposal is properly limited in scope and nature to work to be performed by an independent contractor and modify the request for proposal as the board may deem appropriate to allow further processing by the purchasing agent;
- (3) Determine that any particular request for proposal, in any or all aspects, involves work that should properly be performed by a municipal employee. In the event of such determination, the matter shall be referred to the appropriate branch of the municipal government of the City of New Haven for further processing;
- (4) Adopt rules of procedure as may be required to carry out the provisions of this article. (Ord. of 6-6-83; Ord. of 12-21-92; Ord. of 8-2-93)

Sec. 2-147. Limitation on temporary appointments.

Effective October 1, 1984, under no circumstances shall any person be continued in the employ of the City of New Haven in a temporary appointment in excess of one hundred eighty (180) days. The department of personnel and civil service shall report to the aldermanic legislation committee in June, 1984, on the status of their hiring of employees in the department of personnel and civil service and of progress made in testing temporary appointees. (Ord. of 6-6-83; Ord. of 5-7-84)

Sec. 2-148. Bond fund limitation.

No municipal employee shall have his or her compensation paid from bond funds unless that employee's work is related solely to the bonded project from which said compensation is paid and only then until completion of the employee's work related to the project. (Ord. of 6-6-83)

Sec. 2-149. Short-term part-time municipal employees.

Nothing herein shall be construed as prohibiting the municipal government of the City of New Haven from hiring short-term part-time municipal employees or student interns under the following conditions:

- (1) No such short-term employee shall earn more than five thousand dollars (\$5,000.00) in any fiscal year; this provision shall not apply, however, to student interns;
- (2) The department in which the short-term employee or student intern is to be employed has sufficient funds available in its budget to pay for the services of the individual to be hired;
- (3) An appropriate written employment contract is executed by the mayor on behalf of any municipal department, authority, board or commission, bureau or office or by the president of the board of aldermen on behalf of the board of aldermen and approved as to form by the corporation counsel;
- (4) The office of the corporation counsel shall maintain a current list of all such employment contracts indicating thereon the following information:
 - a. Name;
 - b. Residence;
 - c. Beginning and ending date of contract;
 - d. Rate of compensation;
 - e. Total maximum amount of compensation;
- (5) The municipal government of the City of New Haven shall not enter into more than one (1) such contract with any individual at one time;
- (6) The departments of personnel and civil service shall maintain a list of all individuals interested in short-term part-time employment as provided for in this section. Said list to be generated from positions publicly posted and screened by the department of personnel and civil service. In the case that the department of personnel and

civil service certifies that all such lists have been exhausted for a position, other individuals may be hired after notification by the department of personnel and civil service.

(Ord. of 6-6-83; Ord. of 8-2-93)

Sec. 2-150. Board of education, personal services.

To the extent that the New Haven Charter, the Connecticut General Statutes or other applicable laws provided for the procurement of personal services by the New Haven Board of Education in a manner other than as provided by this article, nothing herein is intended to impose a contrary requirement on the New Haven Board of Education.

(Ord. of 6-6-83)

Cross reference—Safety standards for school buses, § 29-16.

**ARTICLE XIII. COMPETITIVE BIDDING
REQUIREMENTS**

Sec. 2-151. Minimum bidding requirements.

(a) Except as otherwise required by any provisions of the Connecticut General Statutes, sealed bidding shall not be required for contracts or purchases of supplies, materials or equipment and non-construction related services having a value less than or equal to ten thousand dollars (\$10,000.00). Contracts and purchases for supplies, materials or equipment and non-construction related services having a value greater than five hundred dollars (\$500.00) but less than ten thousand dollars (\$10,000.00) shall be awarded in accordance with procedures established by the purchasing agent, which shall include preference for city-based businesses as defined in section 2-153 and consistent with the procedures set forth therein.

(b) Except as otherwise required by any provisions of the Connecticut General Statutes, sealed bidding shall not be required for construction and construction related contracts and services having a value less than or equal to fifty thousand dollars (\$50,000.00). Contracts and purchases for construction and construction related services having a value greater than five hun-